S.B. CIVIL WRIT PETITION NO.2990/2003.
Fulia Kalan Gram Seva Sehkari Samiti Limited, Fuliakalan
Vs.
Sardar Khan and Anr.

DATE OF ORDER : 07.02.2007.

HON'BLE MR. GOVIND MATHUR, J.

Mr. K.S. Yadav, for the petitioner
Mr. R.S. Saluja, for the respondent-workman.

The appropriate government under its notification dated 9.7.1997 referred an industrial dispute for its adjudication to the Labour Court, Bhilwara in the terms as to whether the denial for grant of regular pay-scale, permanent status and the payment of arrears to the workman Shri Sardar Khan by the employer-Managing Director, Cooperative Societies Limited, Bhilwara and President, Gram Sewa Sahakari Samity, Fulia Kalan, Shahapura is valid and proper, if not, then for what relief the workman is entitled. According to the statement of the claim, the workman Sardar Khan was employed as Chowkidar on 16.10.1982 by the President, Gram Sewa Sahakari Samity, Fulia Kalan, Shahapura and his services were also utilised as Class IV employee during the office hours, therefore, he claimed for grant of regular pay-scale and also permanent status as a Class IV employee. Learned Industrial Tribunal by the award impugned dated 28.9.2001 while negativating claim of the workman

declared the workman entitled for getting wages prescribed by the State Government under the Minimum Wages Act from 10.10.1982. The instant petition for writ is preferred by the employer giving challenge to the directions given by the Industrial Tribunal for making payment in accordance with the provisions of the Minimum Wages Act.

It is contended by the counsel for the petitioner-employer that the learned Tribunal travelled beyond the scope of the reference made by the appropriate government.

It is also stated that the workman was employed on part-time basis and therefore, the direction given for payment of wages in accordance with the Minimum Wages Act is erroneous.

Heard learned counsel for the parties.

The appropriate government by Notification dated 9.7.1997 referred the industrial dispute for its adjudication pertaining to grant of regular pay-scale and permanent status to the workman. It is well settled that Labour Court / Industrial Tribunal, while deciding an industrial dispute can also examine the matters incidental thereto. The issue referred was pertaining to grant of regular pay-scale and the direction is given by the Labour Court for making payment of wages in accordance with the Minimum Wages Act is certainly an issue incidental to the dispute. Therefore, I do not find any force in the contention of

the counsel for the petitioner that the Industrial Tribunal travelled beyond the scope of the reference made to it while, granting a direction for payment of wages in accordance with the provisions of Minimum Wages Act.

I also do not find any force in the contention raised on behalf of the petitioner that the respondent being a part-time Chowkidar was not entitled for getting wages in accordance with the Minimum Wages Act. From perusal of the award impugned it is manifest that the respondent-workman was working as a Class IV employee and also as a Chowkidar with the employer. The duties discharged by the workman as averred in the award impugned clearly shows that he was not a part-time but a full time employee.

In view of whatever discussed above, I do not find any error in the award impugned that may warrant interference by this Court under Article 226 and 227 of the Constitution of India. Accordingly, the petition for writ is dismissed.

(GOVIND MATHUR),J.

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